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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,753	09/19/2003	Grace Tallon	5497-8	6985

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COHEN, PONTANI, LIEBERMAN & PAVANE  
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SUITE 1210  
NEW YORK, NY 10176

EXAMINER

MOHANDESI, JILA M

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/665,753

Applicant(s)

TALLON, GRACE

Examiner

Jila M. Mohandesi

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>04-22-04, 04-08-05</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 is incomplete and indefinite. it is not clear as what structure is meant to be encompassed by this claim.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 5-6 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bartolucci (3,982,551). Bartolucci '551 discloses an artificial fingernail package comprising: a packaging frame (envelope 36) for storing a plurality of artificial fingernails of varying width and sizes; and an exterior portion (carton 40) that houses said packaging frame, said exterior portion comprising a transparent portion (window 47) for allowing the arch height of at least one of said artificial fingernails to be observable outside of said package.

With respect to claim 2, note the curvature displaying compartment comprising at least one artificial fingernails (injection molded of resin material blanks 14); and means

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(steam 18 which is equivalent structure to a sponge with slit) for retaining said at least one of said artificial fingernails in said curvature displaying compartment such that the c-curve of at least one of said artificial fingernails is observable outside of said package through said transparent portion of said exterior portion. See Figures 1 and 2 embodiments.

With respect to claim 6, note the compartment in Figure 2 embodiment for holding a container of adhesive (50).

5. Claims 1-2, 5-6 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Aylott (4,106,614). Aylott '614 discloses an artificial fingernail package comprising: a packaging frame (molded frame 1) for storing a plurality of artificial fingernails of varying width and sizes; and an exterior portion (rectangular box 10) that houses said packaging frame, said exterior portion comprising a transparent portion (transparent portion 11) for allowing the arch height of at least one of said artificial fingernails to be observable outside of said package. See Figures 1 and 2 embodiments.

With respect to claim 2, note the curvature displaying compartment comprising at least one artificial fingernails (injection molded of resin material 2); and means (weakened portion or nib 6 which are equivalent structure to a sponge with slits) for retaining said at least one of said artificial fingernails in said curvature displaying compartment such that the c-curve of at least one of said artificial fingernails is observable outside of said package through said transparent portion of said exterior portion.

With respect to claim 6, note the compartment in Figure 1 embodiment for holding the container of adhesive (7).

With respect to claim 8, note the compartment in Figure 1 embodiment for holding a manicure stick (9).

6. Claims 1, 4, 5 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Murphy et al. (5,791,482). Murphy '482 discloses an artificial fingernail package comprising: a packaging frame (transparent wall 13) for storing a plurality of artificial fingernails of varying width and sizes; and an exterior portion (transparent wall 12) that houses said packaging frame, said exterior portion comprising a transparent portion for allowing the arch height of at least one of said artificial fingernails to be observable outside of said package. See Figures 1-6 embodiments.

With respect to claim 4, note storage chamber (19), which stores a plurality of artificial fingernails.

With respect to claim 5, note display compartment (25) containing at least one said artificial fingernails, wherein the top surface of said one artificial fingernails is observable outside of said package through said transparent exterior portion.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Bartolucci '551 or Aylott '614. Each of Bartolucci '551 and Aylott '614 disclose all the limitations of the claims except for a pin compartment that contains a push pin. Official notice is taken that it is old and conventional to provide push pins with adhesive containers for piercing a hole in the tip of said container of the adhesive. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made and in view of the official notice to provide an additional compartment in the package of either one of Bartolucci '551 or Aylott '614 for containing a push pin.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Bartolucci '551 or Aylott '614 in view of Ovadia (4,282,975). Each of Bartolucci '551 and Aylott '614 disclose all the limitations of the claims except for the package containing a sponge-like material with a slit for receiving the artificial fingernails. Ovadia '975 discloses a display package with a sponge and slit (33 734) for better holding and displaying jewelry. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a sponge with slit to the package of

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either one of Bartolucci '551 or Aylott '614 as taught by Ovadia '975 for better displaying the artificial fingernails.

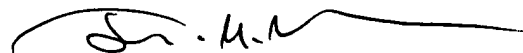
***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are packages analogous to applicant's instant invention.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jila M Mohandesi  
Primary Examiner  
Art Unit 3728

JMM  
February 16, 2006